Riches v. Doppstadt et al Doc. 4 Att. 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
::
JONATHAN LEE RICHES,

Petitioner, **9:08-CV-0167**
vs. **(NAM)**

ERIC W. DOPPSTADT,

Respondent.
::

APPEARANCES:

Jonathan Lee Riches
No. 40948-018
Williamsburg Federal Correctional Institution
Inmate Mail/Parcels
P.O. Box 340
Salters, SC 29590
Petitioner, *Pro Se*

Norman A. Mordue, Chief United States District Judge

DECISION and ORDER

The Clerk of the Court has sent to this Court for review a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 filed by Jonathan Lee Riches. Petitioner is presently confined at the Williamsburg Federal Correctional Institution.

In his petition, Riches principally alleges that his rights under the Eighth Amendment to the United States Constitution are being violated by the respondent, and seeks "better conditions [because] FCI Williamsburg is overcrowded and proper medical care ... is being denied." *See* Petition.

A challenge to conditions of confinement is properly brought under 28 U.S.C. § 2241. *Kingsley v. Bureau of Prisons*, 937 F.2d 26, 30 n. 5 (2d Cir. 1991). However, "a § 2241 petitioner may only challenge his physical confinement in the district court having territorial jurisdiction over

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his immediate custodian." *Chawla v. United States*, No. 06CIV7625, 2007 WL 1799679, at *3 (S.D.N.Y. June 21, 2007). Thus, "the only proper venue for review of a section 2241 petition is in the district of confinement." *United States v. Vittini-Morey*, No. 99 CR 893, 2007 WL 510095, at *2 (S.D.N.Y. Feb. 15, 2007). Based upon the foregoing, this Court transfers this matter to the United States District Court for the District of South Carolina pursuant to 28 U.S.C. § 1404(a) and 1406(a).

This Court makes no determination on the merits of Riches' petition and instead leaves that determination to the District of South Carolina.

WHEREFORE, it is hereby

ORDERED, that the Clerk transfer this matter to the United States District Court for the District of South Carolina pursuant to Local Rules 72.4(b) and 83.6, as well as 28 U.S.C. § 1404(a) and 1406(a), and it is further

ORDERED, that the Clerk of this Court advise the Clerk of the District of South Carolina, in writing, of the entry of this Order and provide that Clerk with a certified copy of this Order and of the docket sheet of this action, together with all information necessary for that Clerk to electronically access the documents filed in this action. The Court hereby waives the ten (10) day waiting period provided for in Local Rule 83.6, and it is further

ORDERED, that the Clerk serve a copy of this Order on the petitioner by regular mail.

IT IS SO ORDERED.

Date: February 20, 2008

Norman A. Mordue
Chief United States District Court Judge